IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1642 OF 2004

Otters Club & Ors. ...Petitioners

Versus

The State of Maharashtra & Anr. ... Respondents

Mr. Ferdun DeVitre with Mr. Shyam Diwan instructed by M/s. Mulla & Mulla & Craigie Blunt & Caroe for the Petitioners

Mr. S.K. Nair for the Respondents.

CORAM: DALVEER BHANDARI, C.J., &
S.J. VAZIFDAR, J.
DATE: JUNE 14, 2005.

P.C.

1. Otters Club, a public charitable trust, has filed this petition, in which it has been pointed out that the land of 5000 square yards was given to Shri Lalu Bajaj, President of Otters Club, pursuant to Government Memorandum dated 24th March, 1970 on payment of annual ground rent for a period of 33 years. The land was given to the trust on

lease. The petitioners have prayed that the petitioners' lease of this land be converted from leasehold to freehold rights. Admittedly, the petitioners had deposited Rs.2,16,32,500/- on 29th March, 2001 for conversion of the land from leasehold to freehold.

2. The respondents have filed reply-affidavit pursuant to the show-cause notice issued by this Court. In the counter-affidavit, it is mentioned that the State Government framed the revised policy regarding renewal of expired lease in Mumbai City and Suburban District vide Government Resolution, Revenue and Forests Department No. LND 1085/13422/CR-184/J-2 dated 5th October, 1999. It is also incorporated in this affidavit that as per clause 5 of the said G.R., it gives an option to a lessee for extension of the lease or converting the land on occupancy right. It is also incorporated in the affidavit that the provisions of the said G.R. dated 5th October, 1999 is not applicable to the present case but only to institutions/persons to whom the Government land is granted on lease basis for Charity/ Educational/Residential/Commercial purposes only. It is also incorporated that the G.R. dated 5th October, 1999 is not applicable in the cases of renewal of lease to a Gymkhana. It is also mentioned

that the Collector, M.S.D., has misinterpreted the provision of clause 5 of the G.R. dated 5th October, 1999 and provisionally sanctioned the conversion of the leasehold property to occupancy right subject to final approval of the State Government vide their order dated 20th February, 2001. The Government rejected the proposal to grant *post facto* sanction to the Collector's order dated 20th February, 2001 in case of the petitioners. The Government, however, renewed the lease for a period of 30 years vide order dated 30th December, 2005.

3. At this stage, the petitioners submit that the amount, which has been deposited by them for conversion of land from leasehold to freehold on 29th March, 2001, be refunded to the petitioners with interest. The prayer seems to be reasonable. Admittedly, the amount has remained with the respondents since 29th March, 2001.

4. We have heard the learned counsel for the parties. In the facts and circumstances, we direct the respondents to refund the entire amount with interest at 6% per annum. The interest amount be calculated from 29th March, 2001 till the date of refund and paid within a period of four weeks.

5. No further directions are necessary. This writ petition is accordingly disposed of.

CHIEF JUSTICE

S.J. VAZIFDAR, J.